

ORIGINAL

CIVIL RIGHTS COMPLAINT

42 U.S.C. § 1983

FILED

IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D.N.Y.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

★ SEP 02 2009 ★

BROOKLYN OFFICE

-----X  
Allen Albergotti - 09A-1788  
Full name of plaintiff/prisoner ID#

Plaintiff,

JURY TRIAL DEMAND

YES ☒ NO ☐

-against-

Apple Bee's Restaurant / Fulton St  
Restoration Plaza  
1) John Doe 79 pct. 3) John Doe 79 pct.  
2) John Doe 79 pct. 4) John Doe 79 pct.

Enter full names of defendants  
[Make sure those listed above are  
identical to those listed in Part III.]

Defendants.  
-----X

09013919  
AMON, J.  
BLOOM, M.J.

I. Previous Lawsuits:

- A. Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action or otherwise relating to your imprisonment? Yes ( ) No (☒)
- B. If your answer to A is yes, describe each lawsuit in the space below (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same outline.)

1. Parties to this previous lawsuit:

Plaintiffs: \_\_\_\_\_  
\_\_\_\_\_

Defendants: \_\_\_\_\_  
\_\_\_\_\_

2. Court (if federal court, name the district;  
if state court, name the county)  
\_\_\_\_\_

3. Docket Number: \_\_\_\_\_

4. Name of the Judge to whom case was assigned: \_\_\_\_\_

5. Disposition: (for example: Was the case dismissed? Was it appealed? Is it still pending?)  
\_\_\_\_\_

6. Approximate date of filing lawsuit: \_\_\_\_\_

7. Approximate date of disposition: \_\_\_\_\_

II. Place of Present Confinement: Ogdenburg Correctional Facility  
One Correction Way, Ogdenburg, N.Y. 13669

A. Is there a prisoner grievance procedure in this institution? Yes (☒) No ( )

B. Did you present the facts relating to your complaint in the prisoner grievance procedure? Yes ( ) No (☒)

C. If your answer is YES,

1. What steps did you take? n/a

2. What was the result? n/a

D. If your answer is NO, explain why not n/a It happened  
prior to my incarceration.

E. If there is no prison grievance procedure in the institution, did you complain to prison authorities? Yes ( ) No (☒)

F. If your answer is YES,

1. What steps did you take? n/a

2. What was the result? n/a

## III. Parties:

(In item A below, place your name in the first blank and place your present address in the second blank. Do the same for additional plaintiffs, if any.)

A. Name of plaintiff Allen Albergotti/09A-1788

Address Ogdenburg Correctional Facility, One Correction Way, Ogdenburg, N.Y. 13669

(In item B below, place the full name and address of each defendant)

B. List all defendants' names and the addresses at which each defendant may be served. Plaintiff must provide the address for each defendant named.

Defendant No. 1

John Doe #1 Arresting Officer's  
79 pct. Tompkins Ave. I.D.# 942175  
Brooklyn, N.Y. 11216

Defendant No. 2

John Doe #2  
79 pct. Tompkins Ave.  
Brooklyn, N.Y. 11216

Defendant No. 3

John Doe #3  
79 pct. Tompkins Ave.  
Brooklyn, N.Y. 11216

Defendant No. 4

John Doe #4  
79 pct. Tompkins Ave.  
Brooklyn, N.Y. 11216

Defendant No. 5

Apple Bee's Restaurant  
Bedford-Stuyvesant Restoration Plaza  
Brooklyn, N.Y. 11215

[Make sure that the defendants listed above are identical to those listed in the caption on page 1].

IV. Statement of Claim:

(State briefly and concisely, the facts of your case. Include the date(s) of the event(s) alleged as well as the location where the events occurred. Include the names of each defendant and state how each person named was involved in the event you are claiming violated your rights. You need not give any legal arguments or cite to cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. You may use additional 8 ½ by 11 sheets of paper as necessary.)

Attached

IV. A If you are claiming injuries as a result of the events you are complaining about, describe your injuries and state what medical treatment you required. Was medical treatment received?

Emotional Distress, Psychological Duress, Mental Disturbance, to myself, my family (wife) which caused our separation to date because of this violation of our Civil Rights. No medical attention was necessary. Mental anguish, pain and suffering.

V. Relief:

State what relief you are seeking if you prevail on your complaint.

Due to the violation of my Federal  
Civil Rights and also violation of my  
constitutional rights in being falsely  
arrested, illegally detained, maliciously  
prosecuted, libel slander.

The plaintiff seeks monetary compensation  
damages, punitive and declaratory judgment,  
in the amount of 1.5 million dollars  
mental anguish, pain and suffering.

I declare under penalty of perjury that on 8/29/09, I delivered this  
(Date)  
complaint to prison authorities to be mailed to the United States District Court for the Eastern  
District of New York.

Signed this 29 day of August, 2009. I declare under penalty of  
perjury that the foregoing is true and correct.

Allen Aliberti  
Signature of Plaintiff

Ogdenburg Correctional Facility  
Name of Prison Facility

One Correction Way  
Ogdenburg, NY.  
13669  
Address

09R-1788  
Prisoner ID#

## CAUSE OF ACTION

1. Plaintiff brings this Civil Rights action pursuant to 42 U.S.C. 1983 for monetary damages for violation of Civil and Constitutional rights 4th, 8th, 14th, amendment of the United States Constitution for the wrongful detention, malicious prosecution, slander, defamation, mental anguish, pain and suffering.
2. Plaintiff alleges inter alia, that the the defendants acting under the color of state law and in their Official and Individual Capacities, deprived the plaintiff herein of his civil and constitutional rights on or about Nov. 11, 2007 at the Apple Bee's Restaurant located on Fulton Street, Restoration Plaza, Brooklyn, N.Y., and the New York City Police Dept. 79 Pct. when without cause the plaintiff was arrested, detained, prosecuted and the charges subsequently dismissed and sealed on February 14, 2008 in the county of Kings Criminal Ct. under DKT# KN-086082
3. The plaintiff alleges that on or about November 11, 2007 he was arrested for possession of a Forged Instrument 3rd, in violation of Penal Law 170.20 by Police Officers John Doe 1-4 from the 79th Precinct, Brooklyn, N.Y. 11221 located at: Tompkins Avenue.
4. The plaintiff alleges that he subsequently arraigned on charges in the Kings County Criminal Court on November 12, 2007 and released on his own recognizance to appear in court at a later date at which time he learned no corroborating supporting deposition's were signed alleging the plaintiff committed any crime.
5. The plaintiff alleges that he was ordered to return back and forth to court until on Feb. 14, 2008, the charges were dismissed and sealed in the Kings County Criminal Court, DKT# KN-086082.
6. The plaintiff alleges that he was subjected to cruel and unusual punishment caused by his seizure and search which caused him humiliation, in public, and the degradation of his dignity through cavity searches, and having to sleep on unsanitary floors in unsanitary holding cells for hours until released in his own recognizance, and the charges thereafter dismissed 4 months later.

In conclusion, the plaintiff contends that his wrongful arrest, detention, malicious prosecution have violated his Civil Rights under the 4th, 8th, 14th, Amendments of the United States Constitution causing mental anguish to date.

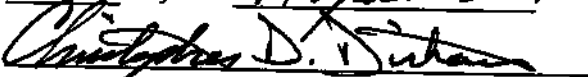
cc: file

Respectfully Submitted,



Sworn to before me this

29 day of August 2009



NOTARY PUBLIC

CHRISTOPHER D. DISHAW  
NOTARY PUBLIC, STATE OF NEW YORK  
NO. 01D16201400  
Qualified in St. Lawrence County  
Commission expires March 2, 2013